

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 5240 of 2021

Date of Decision: 04.03.2021

Sukhdeep Kaur and Another

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. S.S.Behl, Advocate
for the petitioner(s).

Mr. Nikhil Chopra, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

The petitioners while filing this writ petition under Article 226/227 of the Constitution of India seek the following substantive reliefs:-

“b) issuance of direction to respondents department to allow the petitioners to change their category from SC R&O to the dependents of Ex-serviceman SC R&O/and from equal General to General Ex-Serviceman category for the posts of Mathematics respectively as selection process is still going on and scrutiny yet to be done also, especially in view of order dated 22.02.2019 (Annexure P-11) passed LPA No. 320 of 2019 & Order dated 10.12.2018 (Annexure P-12) and judgment dated 20.05.2019 (Annexure P-13) passed in CWP No. 31185 of 2-018 vide which similar situated person granted the aforesaid relief;

c) Further direct the official respondents to consider the candidature of the petitioners against the post in Mathematics Master/Mistress in the Ex-serviceman Military General (Dependent) and SC (R&O)-Ex-serviceman Military (Department) respectively category in view of Lineal Descendant Certificate dated 25.01.2021 and 27.01.2021 respectively”.

The petitioners applied for recruitment, pursuant to the recruitment notice issued on 28.02.2000 inviting the applications for filling up 450 posts of Mathematics Master/Mistress (for border area). The posts were divided into various categories, which are extracted as under:-

No.	Category	Posts
1 to 4	XXXXXX	XXXXXX
5	Ex-Serviceman SC (R&O)	09
6 to 11	XXXXXX	XXXXXX
12	Ex-serviceman Military (General)	31
13	Handicapped 1. Visial Impaired. 2. Hearing Impaired 3. Orthopedically Disables 4. Intellectual Disability (Including Autism and one percent specific learning disability and mental illness or Multiply disability specified in serial No. 1 to 4 above, including deaf-blindness.	5 5 5 4
14	XXXXXX	XXXXXX
	Total	450

Although, learned counsel representing the petitioners has not translated the entire recruitment notice, however, from the reading of Clause 7(xii) & (xiii) of the vernacular of the recruitment notice, it is apparent that the candidates/applicants were warned to select their category cautiously and it was

specifically notified that in no circumstances, they shall be allowed to change the category. The translation of Clause 7(xii) & (xiii) of the recruitment notice reads as under:-

“xii) For any mistake committed while filling up online form, the candidate himself will be responsible. In this regard, the Education Recruitment Directorate will not be responsible in any manner.

xiii) The candidate, while taking the help of Cyber Cafe Attendant for applying online, is advised to fill up the form himself. In the application form, after filling up and approval thereof, neither any permission to make any changes therein will be granted, nor any further opportunity to make changes will be granted. In this regard, no such application shall not be entertained by the office”.

The petitioner No.1 applied under category SC (R&O), whereas the petitioner No.2 applied under the general category. On 09.01.2021, the petitioners appeared in the written examination. The result was declared. The petitioner No.1 secured 66 marks, whereas the petitioner No.2 secured 72 marks.

The Assistant Director, Education Recruitment Directorate, Punjab, issued a circular on 13.01.2021 notifying that the department has decided to grant one last opportunity to such candidates to correct their category. It was reported that the department will open its portal upto 17.01.2021. Thereafter, a Co-ordinate Bench of this Court, while deciding the

case **Gurpreet Singh v. State of Punjab (Civil Writ Petition No. 18337 of 2020,**

decided on 03.11.2020), dealing with some other selection, held that no change in the category, once opted by the candidates, shall not be permitted and the process of selection pertaining to a post would have to be governed strictly as per the terms and conditions contained in the recruitment notice. Pursuant to the aforesaid decision, on 09.02.2021, the department withdrew the circular dated 13.01.2021.

Learned counsel for the petitioners contends that once the department itself had taken a conscious decision to give an opportunity to the candidates to correct/change their category, hence, it should not be allowed to take U-turn to deny the aforesaid option. He further contends that the petitioners belong to Ex-serviceman (dependent) category and, therefore, an opportunity should be given to them to change their category.

Learned counsel further relies upon the judgment passed by the Division Bench in *Haryana Staff Selection Commission through its Secretary v. Sarla and Others (Latter Patent Appeal No. 320 of 2019, decided on 22.02.2019)*. He further relies upon various interim orders passed by the Court. He also relies upon the judgment passed by the Co-ordinate Bench in *Manjeet Kaur v. State of Punjab and Others (Civil Writ Petition No. 11531 of 2018, decided on 24.02.2020)*.

This Court has considered the submissions, however, expresses its inability to accept the same. The judgment passed by the Co-ordinate Bench in the case of *Gurpreet Singh (supra)* is categoric. Still further, in the recruitment notice it was amply made clear that subsequently, no change shall be permitted. There was no ambiguity. Still further, the rules of selection cannot be permitted to be changed midway. If such changes are permitted to be made, there will be no sanctity of the applications originally submitted.

Still further, this Court has carefully gone through the judgment passed in *Haryana Staff Selection Commission through its Secretary (supra)*. The aforesaid judgment was with respect to recruitment notice issued on 30.12.2016 when 126 posts of Supervisor (Female) in the Department of Women and Child Development, Haryana, were sought to be filled in. Those were early days when the candidates were required to apply through online applications. Similarly, in the judgment passed in the case of *Manjeet Kaur (supra)*, is also with respect to the recruitment notice issued in the year 2016.

In this case, the petitioners have applied for the post of Mathematics Master or Mistress. The advertisement was issued in the month of August 2020. The petitioners have applied to become Teachers in the schools. If for such posts, another opportunity is granted, then there would be no end. In any case, the judgments relied upon by learned counsel for the petitioners do not have any application, more particularly in view of the judgment (Annexure P-9) passed by the Co-ordinate Bench in *Gurpreet Singh (supra)*.

Hence, no ground is made out to issue the direction, as prayed for.
Hence, the writ petition is dismissed.

(Anil Kshetarpal)
Judge

March 04, 2021

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No